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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/807,989 | 03/24/2004 | Kazuhiko Funatsu | 40030232-02 | 4670 |
| 22878 | 7590 | 12/29/2008 | EXAMINER | |
| AGILENT TECHNOLOGIES INC. INTELLECTUAL PROPERTY ADMINISTRATION,LEGAL DEPT. MS BLDG. E P.O. BOX 7599 LOVELAND, CO 80537 | | | | AL AUBAIDI, RASHA S |
| ART UNIT | | PAPER NUMBER | | |
| 2614 | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

IPOPS.LEGAL@agilent.com

| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/807,989 | FUNATSU ET AL. |
| | Examiner | Art Unit |
| | RASHA S. AL AUBAIDI | 2614 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 23 September 2008.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-3 and 5-36 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-3 and 5-36 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. _____.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) Notice of Informal Patent Application

6) Other: _____.

DETAILED ACTION

Response to Amendment

1. This in response to amendment filed 09/23/2008. No claims have been added.

Claim has been canceled. Claims 1, 2, 6, 9, 21 and 22 have been amended. Claims 1-3 and 5-36 are still pending in this application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-3 and 5-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over El-Hennawey et al. (Pub. No.: US 2004/0071084) in view of Hoppal et al. (6,377,590).

Regarding claim 1, El-Hennawey teaches a system which is used to evaluate the speech quality of a call [see 0006, 0007] between telephone terminals via a packet network [0028], said system comprising: a sound signal transmitter which transmits sound signals [see 0012 and 0046]; a first packet capturing device which captures a first packet which corresponds to said sound signals [0023]; a sound signal receiver which receives said sound signals which have become degraded while passing through said packet network [0022]; a second packet capturing device which captures a second packet that corresponds to said sound signals which have become degraded [see 0023 and 0052]; and a speech quality evaluation means [this reads on QoS monitoring device 16, see 0026] which evaluates the speech quality of a call between said telephone terminals using: (a) sound signals which are transmitted by said sound signal transmitter; (b) sound signals which are received by said sound signal receiver; (c) said first packet; and (d) said second packet. Limitations (a and b are inherent in El-Hennawey's system).

El-Hennawey, does not specifically teach "that a sound delay associated with the transmission of said first packet that is received as said second packet, the sound delay being used as packet delay".

However, Hoppal teaches invention that relates to voice communication system and methods and in particular, to an apparatus and method for minimizing end to end voice delay. Hoppal defines "Transmission delay" as the delay between when a packet is sent from a source and when it is received at a destination (See col. 1, lines 12-18). The Examiner believes that this is analogous to the sound delay associated with the transmission of the first packet that is received in the second packet, as recited in the claim's language.

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the determination of the delay and minimizing that delay, as taught by Hoppal, into the El-Hennawey system in order to provide, smooth, convenient and more realistic communication among users. Thus, the claimed limitation (C) is nothing but the difference (i.e., delay) of transmission of packets signals that is send from one source and received in the second source.

Claims 15, 18-19, 20-22, 24, 26-27, 29-30, 32, 34 and 36 are rejected for the same reasons as discussed above with respect to claim 1. The claimed "database" as recited in claim 26 reads on log 164 [0048]. For the claimed "delay" as recited in claims 18, 21 and 29, see [0058]. For the claimed "decoder" as recited in claim 32, this basically reads on decoder 186 as shown in Fig. 4.

Claim 2 recites “in said first packet capturing device and said second packet capturing device capture a packet which corresponds to a sound part in said sound signals”. This limitation is inherent.

Claim 3 recites “said speech quality evaluation means determines the amount of sound delay by comparing: (1) said sound signals which are transmitted by said sound signal transmitter; (2) said sound signals which are received by said sound signal receiver for each sound part in the respective signals; and (3) evaluates the speech quality of a call between said telephone terminals using said amount of sound delay”.

See [0058].

Claim 5 recites “wherein the system is provided with: a means which decodes the first decoded sound signals from said first packet; and a means which decodes the second decoded sound signals from said second packet; said speech quality evaluation means determines the amount of sound delay by comparing: (1) said first decoded sound signals; and (2) said second decoded sound signals and evaluates the speech quality of a call between said telephone terminals using said amount of sound delay”.

See [0051 and 0056].

For claim 6, see [0051 and 0056].

Claim 7 recites “said speech quality evaluation means evaluates the speech quality of a call between said telephone terminals by determining the R-value using said amount of sound delay”. For determining the delay, see [0061 and 0063]

Claims 8-9 are rejected for the same reasons as discussed above with respect to claim 7.

As for the display as recited in claims 10-11 and 28, see Fig. 1 and corresponding text.

Claim 12 recites “the evaluation being carried out in prescribed time units whether or not the evaluation of the communication between said telephone terminals has been completed”. This is inherent in the El-Hennawey system.

Claims 13 and 25 recite “wherein said system carries out the evaluation in said prescribed time units or carries out the evaluation while changing the combination of said telephone terminals according to a schedule”. See [0037]

For claims 14, 16 and 23 see [0037].

Claim 17 recites “wherein said sound signals which are transmitted by said

sound signal transmitter are the recorded natural voice of the person using said telephone terminal". See [0035].

For claim 31, limitations see [0069].

For claims 33 and 35, these limitations are inherent.

Response to Arguments

3. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rasha S. AL-Aubaidi whose telephone number is (571) 272-7481. The examiner can normally be reached on Monday-Friday from 8:30 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on (571) 272-7488.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Rasha S AL-Aubaidi/

Primary Examiner, Art Unit 2614